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| 7590 09/02/2004 Mathews, Collins, Shepherd & McKay, P.A. Suite 306 100 Thanet Circle Princeton, NJ 08540 | | | EXAMINER ASTORINO, MICHAEL C | |
| | | | ART UNIT 3736 | PAPER NUMBER |

DATE MAILED: 09/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/750,299

Applicant(s)

DIETRICH, DIANE

Examiner

Michael C Astorino

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-11 and 18-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-11, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 04/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

The examiner acknowledges the amendment wherein claims 1, 12, 13, 14, 15, 16, and 17 were cancelled, claims 2, 4, 5, 8, and 11 are currently amended, and claims 18, 19, 20 and 21.

Claim Objections

1. In claim 18, line 14, the applicant should amend “assesjment” to “assessment.”
2. Claim 21 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The limitation “...auditory assessment component comprises one or more tests selected from the group consisting of: testing auditory discrimination and testing of auditory memory”, is claimed in the independent claim 18.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 2-5, 8-11 and 18-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Wasowicz et al US Patent Number 6,299,452 B1 (cited by applicant).

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Note to applicant: Claim 18 as being the only independent claims will be treated first, then claims 2-11 and 19-21 in increasing numerical order.

Claim 18. (new) A system for providing a prescreening assessment for identifying possible learning disabilities comprising:

a remote station (*illustrated in figure 1 element number 54 client #1 through client #N*);

a visual assessment component and an auditory assessment component at said remote station (54), said visual assessment component providing testing of visual motor skills for evaluating learning disabilities in visual components and said auditory assessment component providing testing of auditory skills for evaluating learning disabilities in auditory components, said auditory assessment component comprises one or more tests selected from the group consisting of testing auditory discrimination and testing of auditory memory (*Wasowicz shows in figures 19 and 20 a visual assessment component providing testing of visual motor skills for evaluating learning disabilities in visual components, see also column 15, lines 29-53.*

Wasowicz et al further teaches numerous auditory assessment component(s) including both auditory discrimination in figures 8 and 10 (see column 11, lines 49-67; column 12, lines 61-67 and column 13, lines 1-5), and auditory memory in figure 13 (see column 13, lines 61-67 and column 14, lines 1-9). "Auditory discrimination" defined as testing discrimination between sounds, and "auditory memory" meaning the capability of a sound or word to be repeated);

means for communicating first information of said visual assessment component and second information of said auditory assessment component to a diagnostic station (*See Figure 1*

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shows the client computer(s) (54) using a communications network (56) to send test responses to the server (52), see also column 5, lines 50-67 and column 6, lines 1-33); and

preparing at said diagnostic station an assessment of learning disabilities based on said first information and said second information. In figure 2, the server (52) includes a diagnostic tool that receives the test results. The diagnostic tool comprises a scorer (104), administrator (106), and recommender (108) for preparing an assessment.

Claim 2. The system of claim 1 wherein said remote system includes a computer and said visual assessment component includes a test represented by a template on said computer, wherein data entered in said template is forwarded to said communication link. *Wasowicz et al disclose wherein said remote station (54) includes a computer and said visual assessment component includes a test (figure 19) represented by a template on said computer. The examiner's views the term "template" as a document or file having a preset format, used as a starting point for a particular application so that the format does not have to be recreated each time it is used. The logic for the visual test displayed in figure 19 is synonymous with the examiner's view of the term template. Additionally, Wasowicz et al disclose wherein said communicating step is performed by an Internet connection (56) between the remote station (54) and said diagnostic station (52), see figure 1, column 5, lines 65-67 and column 6, lines 1-33.*

Claim 3. The system of claim 2 wherein said communication interface comprises an Internet connection for establishing a communication path between said computer of said remote station and said diagnostic station. *Wasowicz et al disclose wherein said communicating step is*

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performed by an Internet connection (56) between the remote station (54) and said diagnostic station (52), see figure 1, column 5, lines 65-67 and column 6, lines 1-33.

Claim 4. The system of claim 1 wherein said visual assessment component includes pen and paper tests and a user completes the tests by writing answers to questions or preparing a drawing. It is inherent that the visual assessment component can be printed out from the diagnostic station (52), and be written on.

Claim 5. The system of claim 4 wherein said communication link is a postal connection or a telephone connection. *Wasowicz et al disclose wherein said communicating step is performed by an Internet connection (56) between the remote station (54) and said diagnostic station (52), see figure 1, column 5, lines 65-67 and column 6, lines 1-33. An Internet connection is synonymous with a telephone connection.*

Claim 8. The system of claim 1 wherein said auditory assessment component includes an interactive voice response system. *See column 7, lines 66-67, column 8, lines 1-14, and column 11, lines 59-63. Moreover, element number 76 is disclosed as an input device such as a keyboard, mouse, joystick, speech recognition microphone or the like, see column 6, lines 41-43.*

Claim 9. The system of claim 8 wherein said communication interface comprises a telephone communication network connecting said audio assessment component to said diagnostic station. *Wasowicz et al disclose wherein said communicating step is performed by an Internet connection*

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(56) between the remote station (54) and said diagnostic station (52), see figure 1, column 5, lines 65-67 and column 6, lines 1-33. An Internet connection is synonymous with a telephone connection.

Claim 10. The system of claim 8 wherein said communication network comprises an Internet connection between a computer of said interactive voice responsive system and said diagnostic station. *Wasowicz et al* disclose wherein said communicating step is performed by an Internet connection (56) between the remote station (54) and said diagnostic station (52), see figure 1, column 5, lines 65-67 and column 6, lines 1-33.

Claim 11. The system of claim 1 wherein said diagnostic station further comprises means for generating a report of an assessment of a user of the system based on said visual assessment component and said auditory assessment component. *See figure 2 element numbers 104 "scorer", 106 "administrator", and 108 "recommender" (column 7, lines 15-65).*

Claim 19. (new) The system of claim 18 further comprising:

means for recording auditory responses of said one or more tests, said auditory assessment component being communicated by retrieving said auditory responses. *See column 7, lines 66-67, column 8, lines 1-14, and column 11, lines 59-63. Moreover, element number 76 is disclosed as an input device such as a keyboard, mouse, joystick, speech recognition microphone or the like, see column 6, lines 41-43.*

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Claim 20 and 21. (new) The system of claim 18 wherein said visual assessment component comprises a diagnostic test. *Wasowicz shows in figures 19 and 20 a visual assessment component providing testing of visual motor skills for evaluating learning disabilities in visual components, see also column 15, lines 29-53.*

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wasowicz et al US Patent Number 6,299,452 B1 (cited by applicant) as applied to claims 1 and 4 above, and further in view of Morris et al. US Patent Number 6,075,968 A.

Regarding claim 6, "The system of claim 4 wherein said remote station further comprises a scanner for scanning said pen and paper tests and a computer," Wasowicz et al, teaches a diagnostic station but does not teach a scanner at said station. However Morris et al. teaches a scanner at said station. (figure 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the diagnostic station of Wasowicz et al. in view of the scanner of Morris et al., since Morris et al states using a scanner "...so that the information can be converted from paper to an electronic format." Column 7, lines 51-62.

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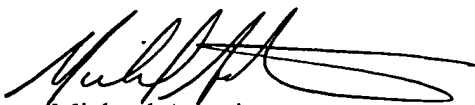
Claim 7. The system of claim 6 wherein said communication interface comprises an Internet connection for establishing a communication path between said computer of said remote station and said diagnostic station. *Wasowicz et al disclose wherein said communicating step is performed by an Internet connection (56) between the remote station (54) and said diagnostic station (52), see figure 1, column 5, lines 65-67 and column 6, lines 1-33.*

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C Astorino whose telephone number is 703-306-9067. The examiner can normally be reached on Monday-Friday, 10:00AM to 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (703) 308-3130. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Astorino
August 24, 2004